DOCUMENT RESUME

ED 345 458 EC 301 219

TITLE	"But, We Don't Have the Money..." (Or As It Should Be "The Check's in the Mail...").
INSTITUTION	Access Group, Atlanta, GA.
SPONS AGENCY	United Cerebral Palsy Associations, Inc., Washington, D.C.
PUB DATE	Jan 92
NOTE	9p.; Also funded by the Agent Orange Class Assistance Program.
PUB TYPE	Guides - Non-Classroom Use (055)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	Advocacy; *Assistive Devices (for Disabled); *Civil Rights; Communication Aids (for Disabled); *Communication Disorders; Compliance (Legal); *Disabilities; Due Process; Elementary Secondary Education; Federal Legislation; *Financial Support; Legal Responsibility; Rehabilitation; School Responsibility; Student Rights; Technology
IDENTIFIERS	Entitlement Programs; Individuals with Disabilities Education Act

ABSTRACT

This newsletter issues offers suggestions to individuals with disabilities whose requests for assistive technology equipment or services have been refused due to an agency's financial situation. Parents asking for services for their child should point out that federal laws such as the Individuals with Disabilities Education Act guarantee a child's right to full educational opportunity and to a free appropriate public education, including special education and related services through age 21. Assistive technology can qualify as a related service. Parents should also make sure that the device or service is specifically included in as many areas as possible in the goals and objectives of the child's Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP). In addition, parents should make sure that requests for assistive devices are written into the IEP placement meeting minutes; should get a written statement stating the reasons for denial of an assistive technology device; and should follow up using required procedures. Potential funding sources for assistive technology devices are listed. Parents are also urged to take a more general approach to problem solving for the total school system, by becoming involved in budget and planning processes, networking with other parents, and so on. For adults over the age of 21, most programs are not entitlement programs, but federal policy directives call for provision of rehabilitation engineering services, and the individual's college or employer may also be able to help. (JDD)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED345458

SYSTEMIC

"But, WE DON'T HAVE THE MONEY...."

(or as it should be "The check's in the mail.....")

INTRODUCTION

Assistive technology is machinery or equipment that helps people with disabilities do things more quickly, easily, or independently. It can be elaborate and expensive or simple and low-cost. Examples of assistive technology devices include wheelchairs, computers, toys that are adapted for easy use, and machines that read aloud, speak for people, or translate speech to print. Other examples include grab bars, railings, ramps, or equipment used for eating or daily activities. Assistive technology services are supports to using such devices, such as evaluations, maintenance, demonstration, or training.

When individuals and families become aware of the benefits of assistive technology, they may ask for such devices or services through their service delivery agency, school, or other professionals with whom they work. For each person that gets what they need, there are others who are told...

"We don't have the money."
"We don't pay for things like that."
"We've never funded equipment before."
"If we paid for that for you, we'd have to pay for everyone."
"With the funding cutbacks this year, we can't do that."

Given one of these answers, the person with a disability or parent turns to friends and family and says, "It doesn't seem right, but what could I say? What could I do?"

When financial reasons are used to refuse requests for assistive technology equipment or services, there are many ways that parents and adults with disabilities can answer. To accept a "NO" often means giving up choices that can open doors to independence, communication, interaction, and integration in the community. By not accepting the "NO," many people have been successful in obtaining the equipment and services they need.

It is possible to use the system's rules and regulations to answer "We don't have the funds." Individuals and parents can point out rules and regulations making "lack of funds" an unacceptable excuse. It may, however, take long, hard work to change the attitudes and priorities behind such remarks.

I WISH I HAD SAID. . .

If parents ask for assistive technology devices or services for their child and are turned down with the answer "We don't have the money," they should point out that:

Federal laws such as the Individuals with Disabilities Education Act (IDEA), P.L.102-119, guarantee a child's right to full educational opportunity and to a free appropriate public education (FAPE), including special education and related services through age 21. Related services are those services which help a child benefit from special education including: transportation, speech pathology and audiology, psychological services, physical and occupational therapies, recreation, social work services, counseling services (including rehabilitation counseling), and medical services.

EC 301219

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☑ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
Bonnie W. Webb
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

BEST COPY AVAILABLE

Assistive technology CAN qualify as a related service.

Federal law and court decisions state that lack of funds is not an excuse for a school system's failure to provide a free appropriate public education. Since assistive technology devices and services may be an important part of this free and appropriate public education, this excuse should not be given to parents.

The Individuals with Disabilities Education Act, IDEA, defines assistive technology devices and services in Section 602(a). In addition to evaluation, selection, maintenance, coordination, training, and technical assistance related to devices, the definition of assistive technology service includes:

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities."

On August 10, 1991, Director of the federal Office of Special Education Programs, Dr. Judy Schrag, issued an Office of Special Education and Rehabilitative Services Policy Letter. This letter made it clear that:

- Assistive technology can be listed in an IEP as either "special education" or a "related service."
- Assistive technology can be considered as a supplemental aid or service used to help with a child's education in a regular education setting.

Special Education is defined as "specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child. . ." Related services include "transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education," 34 CFR 300.13(a) . Dr. Schrag stated in her Policy Letter that public agencies (including school districts) are not permitted "to presumptively deny assistive technology." The letter stated that children must be considered for assistive technology on a case-by-case basis, as the Individualized Education Plan (IEP) is developed.

WHAT CAN I DO?

Parents who are told that their children cannot have assistive technology equipment or services because their school system does not have the money should also take these steps:

• Make sure that the device or service is included in your child's Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP). Need for the device or service should be described in the Needs and Present Level of Performance sections of the Plan. For example, "Johnny is non-verbal and has no way to express his needs or communicate with people around him. Although he communicates with his mother and other family members through body language, eye gaze, and crying, the success of these communication efforts depends on what the listener thinks he may be trying to say. His mother reports that he can visually focus on a preferred object. His physical therapist reports that he may be able to move his right arm to activate a switch." Such a description of Johnny's communication skills and needs sets the stage for asking for an augmentative communication device for Johnny.

• In addition to describing needs, the IEP or IFSP should also contain specific recommendations as a result of an evaluation in this area. An example of a recommendation is: "Based on the evaluation by the interdisciplinary team and the observations of the Occupational Therapist, it is recommended that Jenny use a built-up fork and spoon for feeding herself. Also, a non-skid surface should be used to hold dishes, glasses, and utensils on the table or on her laptray." Evaluation recommendations should be as specific as possible, and should include any service supports that may be necessary (such as training family members or staff to use the equipment).

• The device or service should also be written into as many areas of the Goals and Objectives as possible. For example, objectives involving augmentative communication could be:

-"Johnny will use his IntroTalker to initiate communication with peers in academic and non-academic settings, including lunch, Physical Education, language arts, math and science classes."

-"Johnny will read aloud with his reading group, using sentences he has pre-programmed into his IntroTalker, as a part of his homework assignment."

-"Johnny will answer questions during science class, using complete sentences with his IntroTalker."

In order to be effective, the objectives should be as specific as possible, and include the use of the appropriate device.

• Parents should also make sure that requests for assistive devices are written into the IEP placement meeting minutes. These minutes should be a part of the record for each placement meeting. The district's answer to such a request should be recorded along with the request in the minutes.

• Ask the person who tells you that your child cannot have an assistive technology device or service because the school system lacks funds, to send you a letter or a written statement stating (1) that you are being turned down, and (2) listing the reasons.

• If you do not have a refusal in writing, but the district continues to say they will not pay for a device or service, then you should write to them. Write a letter to the person involved, repeating exactly what they have told you. Ask them to contact you within a week if the information in your letter is not correct.

• Send a copy of the school system's letter or your letter about the situation to the school board's attorney and ask for a statement about whether such a position and reasoning are system policy or practice. A policy is a formal written statement, usually approved by the school board or superintendent, outlining how such situations should be handled. A practice is just a custom or the usual way of handling a situation. A policy would have to be changed or approved by the "powers that be" such as the School Board, while a practice can be changed by an individual, such as an administrator or teacher.

Lawyers are often unaware of statements made by personnel in their system and they may quickly explain the position of the district on such matters. Again, make sure that you get a letter from the attorney, or that you send a letter to him/her restating what you were told. If the lawyer does not agree with the school's position, use this letter in pursuing your request. If the lawyer supports the "NO" answer you have gotten from others in the system, send a copy of this letter to the State Director of Special Education. Ask whether this position is acceptable to the state and in agreement with federal and state laws and regulations.

• Of course parents can always document their situation and file a complaint with the state's Director of Special Education, request mediation or a due process hearing, or file a 504 complaint with the Office for Civil Rights because they are being denied access to appropriate programs or services. Other strategies such as those listed above should make it possible to avoid these procedures, but parents should know that they have the right to use these approaches if they need to.

• Ask whether the schools have looked into all possible sources of funds for technology devices and services. *The parent should not feel responsible for finding such funds since that is the job for which the school staff are paid*, but they may wish to encourage administrators to pursue all avenues of funding.

$$$$

Funding sources include, for example:

$ Public Law 89-313, the Elementary and Secondary Education Act Amendments of 1965, set up grants for state agencies to educate children with disabilities in state-operated or supported schools and institutions. If a child has been served in a state school or institution, and is now served in a public school, P.L. 89-313 funds should follow that child to

the local school. Although this amount of money is usually no more than $400 per child, some schools have used it to buy "low-tech devices" such as tape recorders and tapes, toys, or switches, or to buy lower-cost augmentative communication devices such as the Wolf. Parents can call their state Department of Education offices to get information on 89-313 funds.

$ The EPSDT (Early Periodic Screening Diagnosis and Treatment) Program was expanded in 1990, making it an excellent third-party funding source for services and devices for children who are eligible for Medicaid. Education laws do not require that a school system pay for each and every service or device-- only that they make sure that the child has the equipment, services, or programs outlined in the IEP. Medicaid-eligible children are entitled to diagnosis and treatment services under EPSDT. This means that they may be evaluated for technology needs and get services or devices through EPSDT (Medicaid) funds.

$ Private Insurance - Parents should know that school systems can ask them whether they would be willing to use their private insurance to cover the cost of special education and related services, but that use of their insurance is strictly voluntary. Parents do not have to use their insurance unless they choose to do so. The schools may not require the parents to file an insurance claim. If costs result from a claim, the state or local agency must cover such costs. For example, if Jennifer's IEP says that she needs a screen magnification device to enlarge the print on the computer screen so that she can read better, the school may ask Ms. Jones if she would use her insurance for this device. Ms. Jones' insurance company may pay 80% of the cost. Any remaining cost should be paid by the school, not the parent, since services in the IEP are at no cost to the parent. Parents may not wish to file their private insurance for services listed within the IEP, because there is a possibility of insurance premiums being raised. The insurance company may have limits on the total amount they will pay over time for an individual or family's claims (the amount available for payout may be reduced as the result of lifetime limits in individual or family coverage).

Whether filing claims initiated by the family or the school situation, families should keep in mind that insurance companies are very likely to say NO the first time around, and the success of a claim may depend on the parent's willingness to re-apply and/or appeal a claim determination.

$ Equipment loan programs may be available to students, through education, libraries, private sources, manufacturers, or banks.

$ The Technology Related Assistance Act, PL 100-407, has funded many states to expand and coordinate technology services. If your state has received a Tech Act grant, there may be additional resources available to you or to agencies that serve families and people with disabilities. For example, some states have set up low-interest loans, equipment lending programs, or individual grants of equipment. Almost every state receiving these funds has set up or expanded technology services or other types of support in local communities. These funds are earmarked for statewide activities and should not be restricted to a particular age or disability group.

IS THERE ANYTHING ELSE I CAN DO?

When your school system uses funding as an excuse for denying services, parents may want to take a more general approach to problem-solving for the total system. For example:

Become involved in the budget and planning process for Special Education services. . .

as a part of your local Special Education Advisory Panel,
as an individual citizen, or
as a part of a special interest support group.

The budgeting process results in setting aside money for those areas that are considered important. Parent involvement can ensure that budget priorities are likely to meet the needs of their children.

Survey local schools to find out how many computers are available to students in regular education programs, as well as when they are used, and how

students get to use them. Compare the number of students per computer in regular education to the number of students per computer in special education programs. For example, if you find that the regular education program has a ratio of 15 students per computer, but the special education program has a ratio of 45 students per computer, use that information to convince other parents, staff, and administrators about the unequal programs. Also compare the information you have about where, when, and how computers are used in the different programs. Remember:

Computers are equally valuable--if not MORE important--to the education of children and youth with disabilities and special learning needs.

Computers do not always have to be bought with special education funds.

Computers need not be used by one group or another, but can be jointly used by students in regular and special education.

3

Network with other parents. Find out how other families have gotten services and devices. Share successful strategies with other parents in the system.

4

Educate administrators, School Board members, and legislators about the effectiveness of assistive technology, and encourage them to support funding in these areas. Write letters, send them copies of newspaper articles, provide them with examples of successful technology use in other systems, and have them get to know your child personally.

5

Identify model programs and success stories from other school systems, or other states, if necessary, and promote adoption of best practices in your child's program. When parents give examples of "promising educational practices" related to their child's situation, they can also ask for training and continuing education for parents and professionals related to these practices.

SO MUCH FOR KIDS, BUT WHAT IF I'M OUT OF SCHOOL AND NEED TECHNOLOGY?

Most programs provided to people after the age of 21 are not entitlement programs. Students with disabilities are guaranteed a free appropriate public education; they have a right to those entitlement programs. Adults over age 21, however, often deal with programs from which they could be excluded because of requirements such as meeting income levels, the person's potential for employment, or type and severity of disability. Perhaps because of the possibility of not "fitting" certain programs, an adult with a disability often feels at a disadvantage and may be more likely to accept the excuse, "We don't have the money," or "We don't have the money to provide assistive technology services." Instead of accepting such excuses, self-advocates and others working with them should know:

- Rehabilitation Services Administration Commissioner Nell Carney has written a Policy Directive (November 16, 1990) on rehabilitation engineering services. Rehabilitation engineering services include technology methods, approaches, or devices which help individuals with disabilities overcome barriers to education, rehabilitation, employment, transportation, independent living, and recreation. Commissioner Carney's Policy Directive said that State Vocational Rehabilitation agencies had to:

1) Look at whether technology supports would affect their potential for employment;

2) Make rehabilitation engineering supports available during evaluation, annual review and as a part of post-employment services; and

3) Provide rehabilitation engineering services regardless of whether similar services and benefits are available under any other programs.

Given this new policy directive, many people with disabilities may wish to re-apply for Vocational Rehabilitation services. Or, if they are receiving Vocational Rehabilitation services without any attention to their technology needs, they may want to ask for a change in the services they are getting.

- Your school, college, or university may be able to help you. If you are in a post-secondary program such as college or vocational education, you may need assistive technology to participate in programs or classes on an equal basis with other students. It is possible that the school or university could provide assistive technology devices and services for you while you are a student in their program. For example, the library might provide computerized databases which could be read by a student with a visual impairment with the support of text enlarging software or programs that read text aloud. Students may have notetakers or tutors, and all buildings, spaces, and programs should be physically accessible to all students. Rehabilitation Services may also pay for technology devices and services if they are written into the Individualized Written Rehabilitation Plan (IWRP).

- Even in non-entitlement programs, there are appeals processes that individuals can follow. Each program, agency, or funding source may have a different appeal process, but these do exist to protect the rights of the individual. It is worth finding out what the appeal process is for the program with which you are dealing and becoming familiar with the rules governing such appeals.

- If you are employed, your employer may need to provide technology devices and supports as a part of their "reasonable accommodation" under the Americans with Disabilities Act (ADA). Reasonable accommodation means modifications or changes to the application process, to the work space, or to job situations. For example, an employer may have to make their building accessible to someone in a wheelchair, to change examinations for someone who has a visual impairment, to reorganize a job, or change work schedules.

The National Institute on Disability and Rehabilitation Research (NIDRR), under the U.S. Department of Education, has funded 10 Regional Disability and Business Technical Assistance Centers to help implement the Americans with Disabilities Act (ADA). These centers can answer questions and provide reliable information about ADA rights and responsiblities.

In order to find out which Technical Assistance Center serves your region, contact the National Technical Assistance Coordinator, ABT and Associates at (617) 492-7100.

- You may find assistance and technology resources through your state's Tech Act Grant Program. The resources available to parents and children through the Technology Related Assistance Act are also available to adults. Individuals may wish to contact their state's Tech Act Grant program to get information on training, equipment loan programs, low-interest loans, and other types of support. To find out who to call within your state, call the RESNA Technical Assistance Office at (202) 857-1140.

- Make sure that your program plans include technology. If you have an individual program plan in day service programs, Independent Living programs, or other facilities or services, make sure that this plan notes your need for assistive technology. . . regardless of whether the agency says it has money to pay for such devices or services. If a person already believes that they are not eligible for technology services, they may not ask for their needs to be noted in their individual plan. Their reasoning is, "If the Agency can't or won't pay for it, what difference does it make if it is written down?" The answer to that question is simple:

☑ Agencies, as a rule, only deal with needs that are documented or written down. Once the need is documented, the agency may become creative in finding funds or resources to meet that need.

☑ If many people receiving services from a particular agency write technology needs into their written plan, the agency may be able to use that information to convince their funding sources to provide additional funds or to find community resources to meet those needs.

☑ Once the technology need is written down, planning can begin to address those needs on a long-term basis.

- Try talking to your legislators about your need. Although the agencies with which you are dealing may have limitations, your legislator may be willing to look into the budgeting of state or federal funds, or write your needs into the budget, or start the process of changing laws or regulations.

- Ask vendors--those companies that manufacture and sell technology products--to help you find other individuals who have been successful in finding funding for their products. Find out from your friends how their devices were paid for and use the same resources.

FINALLY. . .

Once parents and adults with disabilities are successful in finding funds for devices and services, they should share their successful techniques with as many people as possible within their community. The ideas and approaches that worked for one are likely to work for others. If you continue to be unsuccessful on your own, however, working with others interested in finding funding for technology may be the key to success. Many people working together to point out their needs for technology are likely to get results that will help the group AND the individual.

If you are being refused assistive technology services or devices for financial reasons, the following resources can help you locate the available programs in your state:

Parent Training and Information Projects
The TAPP Project - (617) 482-2915

Protection and Advocacy Services
(202) 546-8202

National Information System for Vietnam Veterans and their children
(800) 922-9234

KEY NOTES are created by THE ACCESS GROUP to provide information about assistive technology to the families of Vietnam veterans who have children with disabilities. THE ACCESS GROUP is jointly funded by the Agent Orange Class Assistance Program and United Cerebral Palsy Associations, Inc. If you are a family member or a professional working with families of Vietnam veterans, THE ACCESS GROUP can serve as a resource to you in your efforts to obtain assistive technology. This publication is also available on audiotape. For more information call: 1-800-821-8580, 1-404-888-9098 (TT).

THE ACCESS GROUP
1776 Peachtree Rd., N.W.
Suite 310 North
Atlanta, GA 30309

The Access Group

1776 Peachtree Road, N.W.
Suite N310
Atlanta, GA 30309